

**LEGALINK, A MERRILL COMPANY**  
**Court Reporting \* Legal Videography \* Trial Services**

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1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE MIDDLE DISTRICT OF ALABAMA  
 3 EASTERN DIVISION  
 4

5 CASE NUMBER: 3:05-CV1018-M

6 DENISE L. SMITH,

7 Plaintiff,

8 vs.

9 SEARS,

10 Defendant.

11 **STIPULATION**

12 IT IS STIPULATED AND AGREED by

13 and between the parties through their  
 14 respective counsel, that the deposition of  
 15 Denise L. Smith may be taken before Anita  
 16 Thebo, Commissioner, at the offices of  
 17 Burr & Forman, at 201 Monroe Street,  
 18 Montgomery, Alabama 36104, on the 28th day  
 19 of April, 2006.  
 20

21  
 22 DEPOSITION OF DENISE L. SMITH  
 23 (48094)

Page 2

1 IT IS FURTHER STIPULATED AND  
 2 AGREED that the signature to and the  
 3 reading of the deposition by the witness  
 4 is waived, the deposition to have the same  
 5 force and effect as if full compliance had  
 6 been had with all laws and rules of Court  
 7 relating to the taking of depositions.

8 IT IS FURTHER STIPULATED AND  
 9 AGREED that it shall not be necessary for  
 10 any objections to be made by counsel to  
 11 any questions except as to form or leading  
 12 questions, and that counsel for the  
 13 parties may make objections and assign  
 14 grounds at the time of the trial, or at  
 15 the time said deposition is offered in  
 16 evidence, or prior thereto.

17 IT IS FURTHER STIPULATED AND  
 18 AGREED that in accordance with Rule 5(d)  
 19 of The Alabama Rules of Civil Procedure,  
 20 as Amended, effective May 15, 1988, I,  
 21 Anita Thebo, am hereby delivering to Mieke  
 22 A. Hemstreet the original transcript of  
 23 the oral testimony taken on the 28th day

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1 of April, 2006, along with the exhibits.

2 Please be advised that this is  
 3 the same and not retained by the Court  
 4 Reporter, nor filed with the Court.  
 5 \*\*\*\*\*

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1 **Q. Do you know if that customer**  
2 **had a service call?**  
3 **A. I can't say. I don't know.**  
4 **Q. And your associate number is**  
5 **associated with that transaction, correct?**  
6 **A. That's correct.**  
7 **Q. Now, Ms. Smith, how did you**  
8 **know to use that two ninety-nine one?**  
9 **A. They were in the register.**  
10 **And actually, to be --**  
11 **Q. Did you look at the terms of**  
12 **the coupon to know to use the two**  
13 **ninety-nine one rather than three**  
14 **ninety-nine?**  
15 **A. No.**  
16 **Q. You just happened to pick up**  
17 **the right one?**  
18 **A. No. You just pick up a coupon**  
19 **and you scan it and you use it. We**  
20 **didn't --**  
21 **Q. You just keep scanning coupons**  
22 **to see which ones go through?**  
23 **A. Uh-huh (positive response).**

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1 **We do.**  
2 **And that was something --**  
3 **Q. Even though the customer**  
4 **wasn't eligible and didn't have a service**  
5 **call, you would do that?**  
6 **A. Yes, we did.**  
7 **Q. And, again, according to the**  
8 **handbook, that's an unauthorized discount,**  
9 **correct?**  
10 **A. According to the handbook.**  
11 **Q. Now, on -- This might be the**  
12 **same -- I might just have duplicates in**  
13 **here, I'll have to look and figure that**  
14 **out. I think it is, yeah. So never mind**  
15 **about that one.**  
16 **Yeah, that's a duplicate in there.**  
17 **A. That's a duplicate right**  
18 **there.**  
19 **Q. Yeah. I think I just printed**  
20 **the page twice.**  
21 **A. Yeah. All these are**  
22 **duplicates.**  
23 **Q. Now, flip to page eighty-five**

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1 **for me.**  
2 **A. (Witness complies.)**  
3 **Q. Where the sales check number**  
4 **is 0612, you see that one?**  
5 **A. Uh-huh (positive response).**  
6 **Q. And the total discount**  
7 **reduction amount is one forty; is that**  
8 **right?**  
9 **A. Uh-huh (positive response).**  
10 **Q. And on page eighty-six, the**  
11 **journal tape associated with that**  
12 **transaction indicated at the bottom, 0612.**  
13 **And it shows that you made that**  
14 **transaction; is that right? You completed**  
15 **that transaction?**  
16 **A. It's under my number.**  
17 **Q. Sales associate 190, okay.**  
18 **That also shows a sixty-five-dollar**  
19 **discount, correct --**  
20 **A. Yes.**  
21 **Q. -- using coupon with the bar**  
22 **code that's on -- the same as the one on**  
23 **the service coupon?**

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1 **A. That's correct.**  
2 **Q. Do you know if that customer**  
3 **had a service call?**  
4 **A. I don't know.**  
5 **Q. Now, do you recall that on**  
6 **November 8, 2004, Terry and Nina Fitzwater**  
7 **talked to you about your abuse of the**  
8 **service coupon?**  
9 **A. Not abuse, no. They talked to**  
10 **me about the coupon.**  
11 **Q. And was this the first you had**  
12 **heard of this?**  
13 **A. Yes.**  
14 **Q. So you had no idea this was**  
15 **going on?**  
16 **A. As far as what, the**  
17 **interrogations?**  
18 **Q. Yes.**  
19 **A. I had heard it earlier that**  
20 **day when I came in at one o'clock.**  
21 **Q. So this was the first you**  
22 **learned that --**  
23 **Let me back up. This was the first**

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1 **you learned that there was an**  
 2 **investigation going on for coupon abuse?**

3 A. It was within that -- If it  
 4 wasn't that day, it was within that week.

5 **Q. Do you recall when you first**  
 6 **heard it?**

7 A. It was one day when I worked  
 8 nights, I came in at one.

9 **Q. Do you know who you heard it**  
 10 **from?**

11 A. Yes. I heard it -- Well, no.  
 12 What I heard was that there was an  
 13 investigation going on.

14 **Q. Who told you that?**

15 A. Beatrice Willis and Jackie  
 16 Dodson, but they were not at liberty to  
 17 discuss it, and that I would find out  
 18 soon.

19 **Q. Now, did they say anything**  
 20 **else to you about it?**

21 A. Not about -- They didn't give  
 22 me any specifics about what the  
 23 interrogation was.

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1 **Q. What the investigation was**  
 2 **about, they didn't tell you?**

3 A. No.

4 **Q. So you had no idea it really**  
 5 **had to do with coupon abuse?**

6 A. Not until I got back in the  
 7 back.

8 **Q. Did they allude to you at all**  
 9 **what it was about?**

10 A. No.

11 **Q. Now, when you went to talk to**  
 12 **Terry and Nina, what did they say to you?**

13 A. Nina didn't say anything.

14 **Q. Okay. What did Terry say?**

15 A. Word for word, I can't  
 16 remember. But he basically pulled the  
 17 receipts out and asked me was I aware of  
 18 those receipts.

19 **Q. And what receipts are you**  
 20 **talking about, the ones we just**  
 21 **reviewed --**

22 A. Uh-huh (positive response).

23 **Q. -- in Defendant's Exhibit 6?**

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1 A. Right.

2 **Q. And what did you tell him?**

3 A. He asked me -- The first one  
 4 was about Clint Teal's receipt, he asked  
 5 me did I ring that up. And I told him I  
 6 did not remember ringing that up, I didn't  
 7 remember that sale.

8 A few of them at that particular  
 9 time I did remember, but that's all he  
 10 asked me.

11 **Q. Did he ask you if they had had**  
 12 **a service call?**

13 A. No, he didn't.

14 **Q. Did he ask you if you were**  
 15 **using coupons that the customer had**  
 16 **brought in or were reusing the coupons?**

17 A. He asked me why was I using  
 18 coupons and under what circumstances.  
 19 And, you know, I just went on to explain  
 20 to him that we use coupons to, you know,  
 21 keep a customer from walking, make a  
 22 customer for life, make a customer happy.  
 23 And he asked me what was I to do with

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1 coupons. And I told him only thing I knew  
 2 was to put them in the drawer, that's what  
 3 I had been doing from the time that I had  
 4 been there. He asked did I know that I  
 5 was supposed to tear them up and turn them  
 6 in at night. And I told him, no, I  
 7 didn't; I had never been told that and had  
 8 never did that before.

9 Well, the first part of the  
 10 conversation was I told him I was going to  
 11 record the conversation. He said, well,  
 12 we'll end it. And I cut the recorder off,  
 13 so that's the first --

14 **Q. You didn't record anything?**

15 A. No, I didn't. That was the  
 16 first thing.

17 **Q. So then he asked you under**  
 18 **what circumstances you were using the**  
 19 **coupon, and you told him basically you**  
 20 **were using it to close sales?**

21 A. Right.

22 **Q. And you told him that you**  
 23 **didn't throw coupons away, you just kept**

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1 them in the drawer?  
 2 A. Yes.  
 3 Q. And you would reuse them?  
 4 A. Yes.  
 5 Q. Did he ask you to explain any  
 6 of those transactions?  
 7 A. The only one he really asked  
 8 to explain was the Clint Teal one.  
 9 Q. Did you know if that  
 10 transaction actually went through?  
 11 A. I don't know.  
 12 Q. You don't know if it was  
 13 cancelled or not?  
 14 A. I don't.  
 15 Q. Did he ask you to explain why  
 16 you were misusing the coupons and giving  
 17 it to customers who weren't eligible for  
 18 it?  
 19 A. He didn't.  
 20 Q. Did he ask you to write a  
 21 statement?  
 22 A. He did.  
 23 (Whereupon, Defendant's

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1 Exhibit No. 7 was  
 2 marked for  
 3 identification.)  
 4 Q. Is this the statement that you  
 5 wrote?  
 6 A. It is.  
 7 Q. In here you say you've never  
 8 been told by past or present managers not  
 9 to use the coupons, not to turn in at  
 10 night or destroy.  
 11 A. That's correct.  
 12 From my understanding, that was  
 13 discussed by a manager before I got there,  
 14 Chandler, and I didn't know him. He was  
 15 the one they said made that rule -- make  
 16 everybody aware of that rule. But after  
 17 him, nobody made that rule aware, and he  
 18 was before I got there. That's what I  
 19 had -- Once I got terminated and found  
 20 out, that's what I was told. I don't  
 21 know.  
 22 Q. Told that they had to put  
 23 coupons in the drawer?

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1 A. That's when he -- No. At the  
 2 time that he was the manager, he was  
 3 telling associates this is what you need  
 4 to do, and he was enforcing this rule.  
 5 But that was before I got to Sears.  
 6 Q. Did y'all ever have meetings  
 7 about giving proper discounts to customers  
 8 or basically when you should use coupons  
 9 or anything like that?  
 10 A. No.  
 11 Q. So if other sales associates  
 12 -- Do you not recall that meeting or you  
 13 just say that there wasn't one?  
 14 A. There wasn't one. Not for  
 15 coupons, no.  
 16 Q. What about giving unauthorized  
 17 discounts, was there a meeting for that?  
 18 Did y'all ever talk about that?  
 19 A. Yes.  
 20 And the one -- The person that I  
 21 remember having that type meeting probably  
 22 was Louis Collins. And his thing, he  
 23 would give you the answer to the test

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1 before the test.  
 2 Q. So in that meeting, you were  
 3 instructed not to give unauthorized  
 4 discounts or give discounts to people who  
 5 weren't eligible for them, correct?  
 6 A. I can't remember exactly what  
 7 the conversation or the gist of the  
 8 meeting was. But if somebody was doing  
 9 something wrong at that particular time,  
 10 he would have a meeting, and he would  
 11 discuss whatever was going on. And it  
 12 could be taking unauthorized markdowns as  
 13 far as just marking stuff down just to be  
 14 marking them down.  
 15 Q. Well, you said there was a  
 16 meeting about unauthorized discounts; you  
 17 said that there was one and Louis Collins  
 18 had that.  
 19 A. Right.  
 20 Q. So unauthorized discounts are  
 21 basically giving discounts to people who  
 22 are not eligible, correct?  
 23 A. He wasn't talking about

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1 documents that Ms. Smith has produced in  
 2 response to our request for production.

3 A. It's almost to the back. I  
 4 guess about halfway in between the  
 5 receipts. My number is 190, so it would  
 6 be --

7 Q. Where is your number located  
 8 on this?

9 A. On here, it's going to be  
 10 right here (indicating).

11 Q. In the middle of the page.

12 A. Uh-huh (positive response).  
 13 What are you looking at now? I can  
 14 tell you if you're close to it or not.

15 It's going to look different than  
 16 that type sheet (indicating).

17 That's it. And that television he  
 18 bought for one of his friends that they  
 19 jump out of the airplane together. And I  
 20 sold that.

21 Q. You sold that to him?

22 A. I did.

23 Q. And you say a reduction total

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1 of one ninety?

2 A. Uh-huh (positive response).

3 Q. And that's the associate  
 4 discount, correct?

5 A. No. Associate discount is  
 6 eighty-one dollars.

7 Q. Right. Right.

8 A. And the reductions is the ten  
 9 percent plus coupons.

10 Q. Do you recall which coupons  
 11 you used?

12 A. No. They were just in the  
 13 drawer.

14 Q. Do you know if they were being  
 15 used consistent with their terms?

16 A. I can't say they were.  
 17 Because I used those just like I did every  
 18 other coupon.

19 Q. I guess what I'm saying, the  
 20 terms that were written on the coupon --

21 A. I don't know what was on the  
 22 coupon.

23 Q. Now, after you finished your

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1 meeting with Nina and Terry, how did that  
 2 end? You wrote this statement?

3 Let me back up. Let me back up.

4 Did you tell me everything that  
 5 basically transpired during that meeting?

6 A. I didn't.

7 Q. Finish telling me about that  
 8 meeting.

9 A. The last thing that I said --  
 10 I asked him, I said, well, Terry, you know  
 11 we're still having problems with the  
 12 system, with the delivery. I said, and we  
 13 still -- we've been using coupons to  
 14 straighten those out. I said, how do you  
 15 want us to handle that. He said, those  
 16 instances, go head and still use the  
 17 coupons.

18 Q. Okay. And that was what we  
 19 talked about before?

20 A. Right.

21 Q. Because it was overcharging,  
 22 so y'all were using coupons to fix that,  
 23 correct?

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1 A. Right.

2 Q. And they had told you that  
 3 that was okay, correct?

4 A. At that time he said that.

5 Now, from what I understand -- They  
 6 called me at home and terminated me at  
 7 home. And from what I heard, they said  
 8 that I said to call me at home. That was  
 9 not true.

10 What I said was, don't let me work  
 11 all day and then terminate me. And I told  
 12 him, if he was going to terminate me, to  
 13 terminate me then.

14 Q. Do you know if Sears had  
 15 reached a decision at that point?

16 A. Well, they probably did, had  
 17 already knew.

18 Q. Do you know if --

19 A. I don't know.

20 And the only reason --

21 Q. Did you tell me all the  
 22 conversations you had with anyone before  
 23 you met with Gandy and Nina about the

41 (Pages 161 to 164)

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1 **coupon abuse?**  
 2 A. No, I didn't.  
 3 **Q. Okay.**  
 4 A. When they told me that they  
 5 couldn't discuss the conversation, I told  
 6 them they had a right to discuss it, that  
 7 they're -- I can't remember what amendment  
 8 I used --  
 9 **Q. Who had a right to discuss it?**  
 10 A. That was with them. You  
 11 couldn't discuss anybody else.  
 12 **Q. I'm confused because you keep**  
 13 **referring to them.**  
 14 A. Beatrice and Jackie. I can't  
 15 remember which one it was, but it was one  
 16 of the two.  
 17 **Q. Had -- This is when they came**  
 18 **out and said, I can't discuss it?**  
 19 A. No. I came on the floor.  
 20 They had already had their discussion  
 21 earlier that morning or whatever, because  
 22 I came to work like at one or two o'clock  
 23 that evening. And they told me that I was

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1 going to be -- I had a meeting or I was  
 2 going to be made aware of something, but  
 3 they couldn't discuss it. And I asked  
 4 what you mean you can't discuss it; they  
 5 told us we couldn't discuss it. I said,  
 6 well, you can discuss anything that has to  
 7 do with you; you can't discuss anything  
 8 that has to do with anybody else. They  
 9 said, well, if -- whatever they discuss,  
 10 if you discuss it, they're going to  
 11 terminate you.  
 12 I'm like, they can't do that. So I  
 13 said, well, I'll tell you what, I'm going  
 14 to get me a tape recorder, because  
 15 whatever they say, I want to have it on a  
 16 recorder. John Lawrie was standing there  
 17 when I said that, because it wasn't  
 18 anything I was trying to hide from  
 19 anybody, because if I was trying to hide  
 20 it, I definitely wouldn't say it in front  
 21 of a manager. I went and I bought me a  
 22 tape recorder at Sears.  
 23 **Q. Is that the extent of the**

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1 **conversation --**  
 2 A. That's the extent of that  
 3 conversation.  
 4 **Q. -- with Louis and/or Dodson**  
 5 **prior to?**  
 6 A. Right.  
 7 **Q. Did you have any conversations**  
 8 **about the coupon abuse investigation with**  
 9 **anybody else before you talked to Terry**  
 10 **and --**  
 11 A. No.  
 12 **Q. -- Nina?**  
 13 A. No.  
 14 **Q. Now, after you talked to Terry**  
 15 **and Nina, did you continue to work?**  
 16 A. That night, because I was  
 17 closing that night.  
 18 **Q. And that -- You had a**  
 19 **conversation with them on the 8th; is that**  
 20 **right?**  
 21 A. That's correct.  
 22 **Q. And you were terminated on**  
 23 **the --**

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1 A. -- 13th at home.  
 2 **Q. And Terry called you, correct?**  
 3 A. Yes.  
 4 **Q. Did you have any conversations**  
 5 **with anybody in management between that**  
 6 **meeting with Terry and Nina and when Terry**  
 7 **called you at home to terminate you?**  
 8 A. Not about me, no.  
 9 Now, Byron Mason and I discussed it  
 10 after Beatrice was terminated.  
 11 **Q. What was that conversation?**  
 12 A. It wasn't right. Any of you  
 13 terminate her, you've got to terminate  
 14 everybody, because everybody was doing the  
 15 same thing.  
 16 **Q. That's what Byron said?**  
 17 A. Yes. That's what we all were  
 18 saying.  
 19 **Q. Do you know if he helped with**  
 20 **the investigation?**  
 21 A. Honestly, I don't think he  
 22 did.  
 23 **Q. Do you know?**

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1 A. I don't know. But I honestly  
 2 don't think he did.  
 3 Q. Do you know if he knew what  
 4 the investigation showed?  
 5 A. Probably after it was done he  
 6 did.  
 7 Q. Did he have any input on the  
 8 decision, do you know?  
 9 A. No. I don't think so.  
 10 Q. Do you know?  
 11 A. According to what came back  
 12 from his conversation, he couldn't have.  
 13 Q. Do you know if he knew the  
 14 details of the investigation?  
 15 A. After it was over with.  
 16 Q. But not while it was going on?  
 17 A. No.  
 18 Q. And not before the decision  
 19 was made?  
 20 A. No.  
 21 Q. Anybody else in management  
 22 that you discussed this with --  
 23 A. No.

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1 Q. -- before your termination?  
 2 A. No.  
 3 Q. Now, you said Terry called you  
 4 at home. What did he say to you?  
 5 A. He was just calling to let me  
 6 know my services was no longer needed.  
 7 Q. And you understood that to be  
 8 for the coupon -- use of the service  
 9 coupon?  
 10 A. Yes.  
 11 That's what I assumed it was.  
 12 Q. So you basically continued to  
 13 work from 11/8/2004 to 11 -- through  
 14 11/13/2004, is that right, those five  
 15 days?  
 16 A. That's correct.  
 17 Q. Now, when you continued to  
 18 work, didn't you go and pull off  
 19 information from Sears's computer and  
 20 remove customer reports --  
 21 A. I did.  
 22 Q. -- on associate summaries and  
 23 things like that?

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1 A. I did.  
 2 Q. Were those for this particular  
 3 reason?  
 4 A. Yes.  
 5 Q. So they had nothing to do with  
 6 Sears's business, correct?  
 7 A. Right.  
 8 Q. And we discussed earlier that  
 9 that's a violation of Sears's policy,  
 10 correct?  
 11 A. That's correct.  
 12 Q. Who gave you access to  
 13 manager's information such as Terry Gandy  
 14 and these other customer reports?  
 15 A. Associate access. Associates  
 16 have access to that.  
 17 You put your password in and you log  
 18 on and you get it.  
 19 Q. What about -- You have access  
 20 to other associate sales?  
 21 A. Yes.  
 22 Q. So the associate summaries  
 23 that we went over in Exhibit, I believe it

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1 was, 6, you have access to those?  
 2 A. Yes.  
 3 Q. Did you copy them at that  
 4 point in order to pursue a lawsuit?  
 5 A. No. To protect myself in case  
 6 I was terminated.  
 7 Actuality it was -- Yeah, I say  
 8 that, to protect myself.  
 9 Q. Any other conversations at any  
 10 time with management about the service  
 11 coupon investigation and/or your  
 12 termination?  
 13 A. Not that I recall.  
 14 Q. Did you ever talk to Gandy  
 15 about it?  
 16 A. Not after that.  
 17 Q. You ever talk to Kenny Reese  
 18 about it?  
 19 A. No.  
 20 Q. You ever talk to John Lawrie  
 21 about it?  
 22 A. No.  
 23 Q. Just Byron Mason?

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1 **Stephanie Darby, do you know if Sears did**  
 2 **that?**  
 3 A. I don't know.  
 4 **Q. So then you don't know what**  
 5 **those documents showed, do you?**  
 6 A. Some of them I do.  
 7 **Q. Do you know what the documents**  
 8 **show between the dates of -- I guess for**  
 9 **the month of October 2004?**  
 10 A. Not offhand. If I look back  
 11 through, I might. I don't know right  
 12 offhand.  
 13 **Q. And what do you recall that**  
 14 **these documents show?**  
 15 A. They used the same coupons,  
 16 the sixty-five-dollar coupon, I guess  
 17 specifically.  
 18 **Q. Now, do you know if those**  
 19 **customers had a service call?**  
 20 A. Well, according to --  
 21 **Q. Do you know if those customers**  
 22 **had a service call is my question,**  
 23 **Ms. Smith?**

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1 A. Not per -- No. But in a  
 2 sense, yes.  
 3 **Q. So, no, you don't know if they**  
 4 **had a service call?**  
 5 A. No.  
 6 **Q. Do you know if Terry contacted**  
 7 **customer service to find out if those**  
 8 **customers that Darby sold appliances to**  
 9 **and used that coupon, do you know what**  
 10 **customer service told him if they had had**  
 11 **a service call or not?**  
 12 A. No.  
 13 **Q. Do you know --**  
 14 A. Can I go back and -- I pretty  
 15 much know that they didn't have a service  
 16 call because the coupons that they used  
 17 for the sixty-five dollars is the same  
 18 coupons that's in the register. There was  
 19 no new coupons added to the register.  
 20 **Q. Well, do you know if Darby**  
 21 **turned her coupons in?**  
 22 A. Nobody turned them in.  
 23 **Q. How do you know? Were you**

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1 **there every day that she worked?**  
 2 A. No, I wasn't. But that wasn't  
 3 a practice. I've been there to close with  
 4 her.  
 5 **Q. Were you there every day that**  
 6 **Darby worked?**  
 7 A. I have worked with her and we  
 8 closed together a lot.  
 9 **Q. Ms. Smith, that's not my**  
 10 **question.**  
 11 A. Not every night I closed with  
 12 her.  
 13 **Q. Okay. Were you there every**  
 14 **day that she worked?**  
 15 A. No, I wasn't.  
 16 **Q. So do you know if she turned**  
 17 **in her coupons at any time?**  
 18 A. She did not turn them in.  
 19 Because --  
 20 **Q. And you weren't with her every**  
 21 **day when you worked, correct?**  
 22 A. Not every day.  
 23 **Q. So, therefore, you would not**

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1 **know if she turned her coupons in if you**  
 2 **weren't there, correct?**  
 3 A. I know the practice of  
 4 everybody, that they didn't turn them in.  
 5 We only turned in the money and a slip  
 6 that showed the money, that's what we  
 7 turned in. Then we turned in the sheets  
 8 when we had to do credit copies; those are  
 9 the only things we turned in.  
 10 **Q. But, Ms. Smith, what I'm**  
 11 **asking you, you said you didn't work with**  
 12 **Darby every day, correct?**  
 13 A. That's correct.  
 14 **Q. So, therefore, you don't know**  
 15 **what she did every single minute of the**  
 16 **day with regards to coupons, do you?**  
 17 A. That's correct.  
 18 **Q. And you don't know what**  
 19 **service told Terry Gandy about whether or**  
 20 **not those customers had a service call, do**  
 21 **you?**  
 22 A. No.  
 23 **Q. Now, you said -- mentioned**

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1 Carolyn Landers also. Do you know if she  
 2 was investigated?  
 3 A. No.  
 4 Q. Do you know if she used the  
 5 coupon -- the service coupon other than  
 6 the time she was supposed to?  
 7 A. If she -- Because of the  
 8 sixty-five there, she could not have used  
 9 them. She could not have used one that a  
 10 customer brought in. She had to use the  
 11 ones that was in the register, because  
 12 that's all that was there.  
 13 Q. Do you know if she misused the  
 14 service coupon?  
 15 A. I did not work with her every  
 16 night, so, no. But if she used them, she  
 17 used the ones that was in the register.  
 18 Q. How do you know if she used  
 19 the ones in the register?  
 20 A. Because no one turned them in.  
 21 There were no new coupons in the register.  
 22 Q. Again, I asked --  
 23 A. They were all the same

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1 coupons.  
 2 Q. Again I ask you, Ms. Smith,  
 3 did you work with Carolyn Landers every  
 4 single day?  
 5 A. No.  
 6 Q. So then a customer may have  
 7 brought a coupon in, and she may have  
 8 turned it in, and you may not have known  
 9 about it, correct, since you weren't  
 10 working with her?  
 11 A. No, that didn't happen.  
 12 Q. That didn't happen?  
 13 A. No, it didn't happen.  
 14 Q. So you weren't there, but you  
 15 know that --  
 16 A. I know that it did not happen.  
 17 Q. Even though you weren't there?  
 18 A. Right.  
 19 Q. Do you know what customer  
 20 service told Terry Gandy or -- I'm sorry.  
 21 Do you know what the service  
 22 department told Terry Gandy if he called  
 23 to check and see if the customer that she

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1 gave that coupon to actually had a service  
 2 call?  
 3 A. No.  
 4 Q. So you don't know if they told  
 5 him that that customer did have a service  
 6 call, do you, and was issued a coupon, do  
 7 you?  
 8 A. No. But the only thing I was  
 9 told, that Terry said there was only one  
 10 service at that time during that month,  
 11 and they did not provide that receipt  
 12 because I know that it was one of my  
 13 customers that came in that did have a  
 14 service, but it's not there, that month.  
 15 And so if my customer is the one  
 16 that did it, all the others was used in  
 17 the register.  
 18 Q. I'm not following you.  
 19 A. From what I understand what  
 20 Terry said, is that there was only one  
 21 customer that had service that month that  
 22 received a coupon. I know I had a  
 23 customer that came in that had a service

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1 call.  
 2 Q. Okay. Was he referring to  
 3 your transactions?  
 4 A. If it's one month, he said one  
 5 month out of all the ones that was used,  
 6 that was everybody included.  
 7 Q. Do you know if he had  
 8 completed his investigation at that point?  
 9 A. Yes. This is the time he was  
 10 doing his interrogations then.  
 11 Q. Do you know if he had reviewed  
 12 -- do you know if he had reviewed Landers'  
 13 transactions and the other transactions at  
 14 this point?  
 15 A. He said he had out of all the  
 16 whole month. Because he told me how many  
 17 I supposed to have used, he told  
 18 Ms. Willis how many she supposed to have  
 19 used, there were some left over, so  
 20 apparently he had to have investigated  
 21 everybody. But I had that one.  
 22 Q. My question: Did he tell you  
 23 he had investigated everybody?

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1 A. I can't say that word for word  
 2 what he said about, you know, had he  
 3 completed his investigation.

4 **Q. Do you know when he**  
 5 **investigated each of you?**

6 A. No.

7 But he said for the month of  
 8 October.

9 **Q. But you don't know what**  
 10 **service told Gandy about each of y'all's**  
 11 **transactions, do you, as to whether or not**  
 12 **the customers had --**

13 A. Said for the month of October  
 14 only one --

15 **Q. That's not my question,**  
 16 **Ms. Smith. You're not listening to my**  
 17 **question.**

18 Okay. I'm asking you, do you know  
 19 what the service department told Gandy  
 20 when he called about each of your  
 21 transactions where all of you used the  
 22 sixty-five-dollar coupon, do you know what  
 23 customer service told Gandy about each of

1 He didn't say for everybody he  
 2 investigated. He said for the whole month  
 3 there was only one issued.

4 **Q. So you don't know if he**  
 5 **actually had investigated everybody else**  
 6 **at that point, do you?**

7 A. Well, I would assume that he  
 8 did because he said out of the whole  
 9 month --

10 **Q. That's your assumption. But**  
 11 **you don't know if he did it, correct?**

12 A. Not to say yes, I was there  
 13 when he did it, no, I can't say that.

14 **Q. Do you know if -- Clint Teal,**  
 15 **do you know when he worked in appliances?**

16 A. No.

17 **Q. Do you know if he was working**  
 18 **in appliances at the time this**  
 19 **investigation was going on?**

20 A. Yes. He worked -- He wasn't a  
 21 sales person I don't believe. He was  
 22 working with the remodel team.

23 **Q. So he wasn't in sales at that**

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1 those transactions.

2 A. He said that there was only  
 3 one coupon that was issued for the month  
 4 of October.

5 **Q. And when did he tell you that?**

6 A. He told Beatrice Willis that.  
 7 And then I stated it during my  
 8 interrogation, and he did say yes.

9 **Q. Okay. So this was after**  
 10 **Willis's interrogation or investigation he**  
 11 **said that?**

12 A. Right. Then I stated that.

13 **Q. So at that point you don't**  
 14 **know if he had investigated your**  
 15 **transactions or anybody else's, do you?**

16 A. But he did agree to that when  
 17 I said that.

18 **Q. He agreed to what?**

19 A. That there was only one that  
 20 was issued that month.

21 **Q. Only one out of the ones that**  
 22 **he investigated, correct?**

23 A. He said for the whole month.

1 point?

2 A. Right.

3 **Q. Anybody else that you claim**  
 4 **that was not terminated for misusing the**  
 5 **service coupon besides Darby, Landers, and**  
 6 **Teal?**

7 A. No.

8 **Q. Do you know if Gandy pulled**  
 9 **Clint Teal's transactions?**

10 A. I don't know. I know he  
 11 pulled the one that was supposedly run  
 12 under my number.

13 **Q. But you don't know if he**  
 14 **pulled the associate summaries and the**  
 15 **journal tapes for Clint's transactions?**

16 A. I don't.

17 But the transaction with the  
 18 sixty-five-dollar transaction was used  
 19 under Clint Teal's sale.

20 **Q. The sixty-five-dollar**  
 21 **transaction was, I'm sorry, what?**

22 A. Under his sale. The sale that  
 23 he bought something.

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